

CUSTODY INSTRUCTION PACKET



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CUSTODY INSTRUCTION PACKET

Use the Custody Instruction Packet **ONLY** when:

- ❑ There is **NO** Custody Order in place in Delaware or anywhere else. (If there is an existing Custody Order regarding your child and you want to **change the Order**, read the Modification of Custody Instruction Packet.); **AND**
- ❑ The child has been living in Delaware for **AT LEAST 6 CONSECUTIVE MONTHS BEFORE** filing your Petition for Custody. (There are exceptions to this 6 month requirement. If the child has not lived in Delaware for at least 6 months, talk to an attorney to see if an exception applies to your situation.); **AND**
- ❑ You are one of the following:
 - The Mother of the child; **OR**
 - The Father (or presumed father) of the child; **OR**
 - The Adoptive Parent; **OR**
 - A Stepparent of the child **BUT ONLY IF:**
 - You are married to the child's parent; **AND**
 - Your spouse has custody or placement of the child; **AND**
 - Your spouse dies or becomes disabled while your spouse has custody or placement of the child; **AND**
 - The child has been living with you **AND** your spouse until such time that your spouse died or became disabled.

If you believe that you have standing to file a Petition for Custody and you are not one of the people listed above, contact an attorney.

If you and the Respondent already agree about how you want the custody arrangement to be handled, you may file a **Consent Order**. To file a Consent Order,

you and the Respondent write down how you want the custody arrangement to work and a Hearing Officer will sign your agreement and make it an order of the Court. To obtain a Consent Order, you must file all of the following forms. Each form is described in detail on the page number listed in parenthesis after it. You must file the **Petition for Custody** (page 8), the **Custody Separate Statement** (page 10), the **Information Sheet** (page 11) and the **Consent Order-Custody, Visitation** (page 12).

To make this Instruction Packet easier to read, it will explain Custody as if you wanted to file for Custody of one child. If you have more than one child with the other parent, you may file for Custody of **all of your children with the other parent** on the same petition. **Please note that if your children have different fathers or mothers, you must file for Custody on separate petitions.** For example, if two of your children have one father and one of your children has a different father, you would be required to file two petitions, one for each father.

HOW TO USE THE PACKET

This packet contains general information about the process of filing a Petition for Custody, basic instructions on how to complete the Court forms you must file, and samples of the completed Court forms.

You should read the instructions and sample forms carefully **before** filling out any forms. All of the forms must be neatly filled out by hand or typed. **ONLY FILE THE FORMS INCLUDED IN THE FORMS PACKET.** The sample forms included in this Instruction Packet are simply to help you understand how to fill out the real forms in the Forms Packet.

YOU DO NOT HAVE TO COMPLETE ALL THE SECTIONS AT ONCE. For example, you do not have to file the forms in Section 2 at the same time as the forms in

Section 1. Read the information carefully to ensure that you know what you are supposed to do and when.

Please look for the shaded written instructions and the following symbols throughout the packet. They will help guide you.



READ THIS SECTION CAREFULLY



THIS DOCUMENT MUST BE FILED



FILL IN THE BLANKS OR WRITE INFORMATION HERE



YOU DO NOT HAVE TO TAKE THESE STEPS NOW.



TIPS AND REMINDERS ...

- ✓ Make sure to read any **Answers to Frequently Asked Questions** on Custody. They will help you to better understand the Custody process.
- ✓ Remember who is the Petitioner and who is the Respondent.
 - The **PETITIONER** is the person who filed the Petition for Custody, in other words, you.
 - The **RESPONDENT** is the person replying (responding) to the Petition.
- ✓ Remember that just because you fill out the forms correctly does not necessarily mean the Court will give you (grant) what you want. It is up to you at the court hearing to prove why the Court should give you what you want.
- ✓ Representing yourself may take a lot of time, may be difficult and may be confusing. The Court will expect you to follow the same rules that attorneys must follow. **If at any point throughout the Court process you are not sure about representing yourself, you should talk to an attorney.**
- ✓ Please remember that **COURT STAFF CANNOT GIVE YOU LEGAL ADVICE**. Should you have a question about what options you have or what you should do, you should talk to an attorney. Just because you talk to an attorney does not necessarily mean that you must hire that attorney to represent you. Ask the attorney if he/she is willing to meet with you and answer your questions without having to hire that attorney for full representation. Before you meet with the attorney, ask what fees may be involved for such limited services.

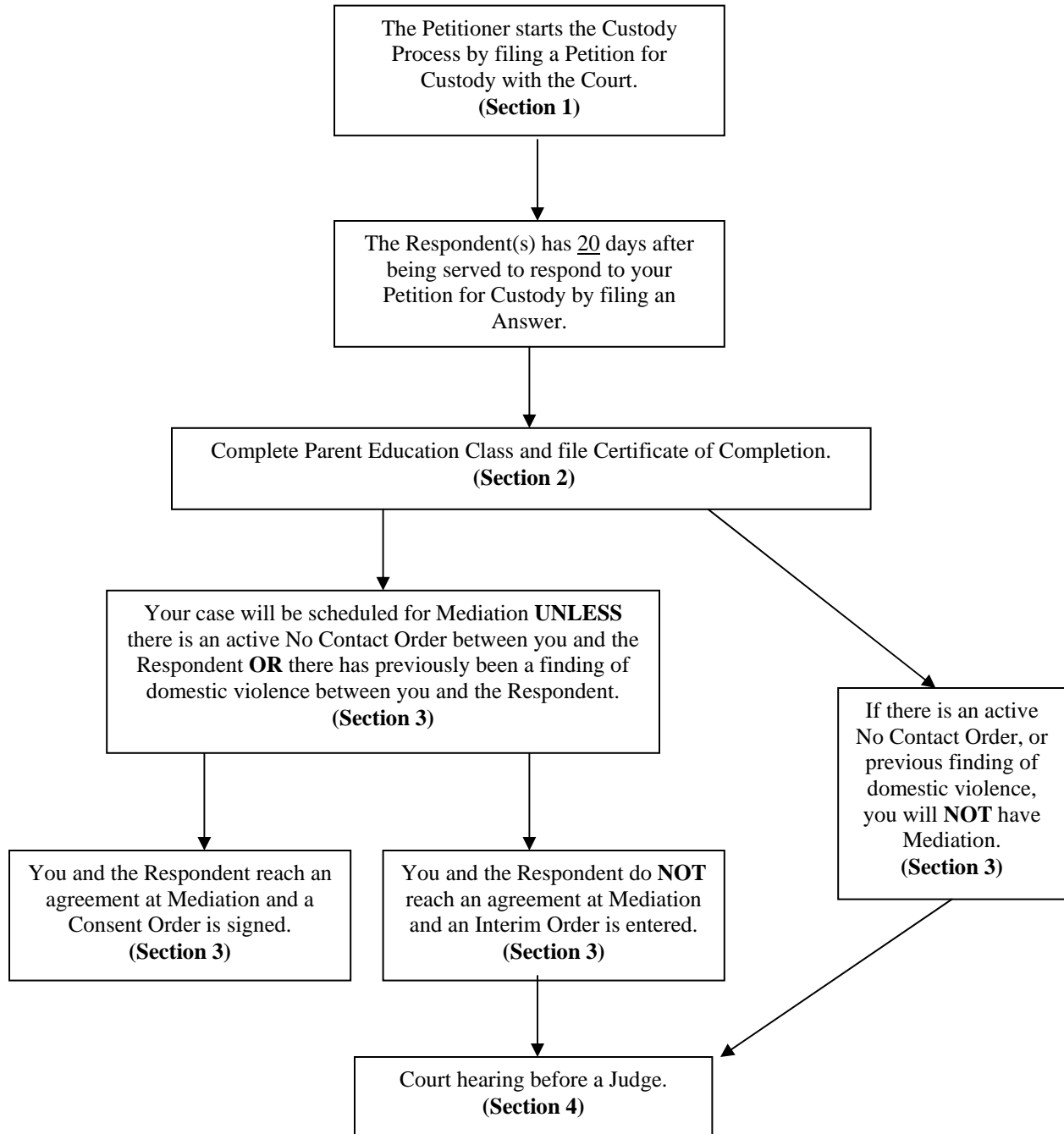
- ✓ If you would like assistance in finding an attorney, you can call the **Lawyer Referral Service** in New Castle County, 302-478-8850, and in Kent and Sussex Counties, 1-800-773-0606. (You may call the same telephone numbers and ask for the **Legal Help Link** to find out if you qualify for free legal assistance.) You also can refer to the **Attorney Roster** that is located at the Family Court Resource Centers. The Attorney Roster is a listing of some of the attorneys who practice family law in Delaware and includes information about how to contact the attorneys and what fees the attorneys charge.
- ✓ **Always bring your photo identification** with you (such as your driver's license, or a state-issued photo identification card) whenever you get a Court form notarized.
- ✓ **THERE IS A LOT OF PAPER IN A COURT CASE AND HAVING THE COURT MAKE YOU COPIES CAN BE VERY EXPENSIVE.**

PLEASE READ AND REMEMBER THESE IMPORTANT TIPS

REMEMBER

- **Keep a copy of every document and court paper.**
- **Keep all notes, documents and court papers together and organized in a folder with the most recent papers on top.**
- **Bring the folder with your papers with you every time you go to Court.**
- **When you file a document with the Court, bring the required number of copies of each paper and an extra copy for you to have “clocked-in.” Keep the clocked-in copy in your folder so you have proof of the time and date you filed each document. You may make copies at the Resource and Self-Help Centers but there is a small fee.**
- **When you complete a document or form for filing with the Court, always include the full case name and file and petition numbers (if there are any).**
- **When you must mail something, we suggest that you use regular mail AND “certified mail, return receipt requested” so that you have proof that the other party received the envelope. If you cannot afford to pay for “certified mail” we suggest you get a “certificate of mailing” at the post office to prove that you mailed the envelope to the other party. You may purchase stamped envelopes at the Resource and Self-Help Centers and the Court will mail your Court papers for you by regular mail. You are responsible for certified mailing.**

CUSTODY PROCESS



SECTION 1

STARTING THE CUSTODY PROCESS



You **MUST** file the **ORIGINAL** and **ONE (1) COPY** of each form below with the Court.

- Make a copy of each completed form for your records.
- Have your set of copies “clocked-in” for your file. Having a paper “clocked-in” means that the Court will stamp on the copy the time and date you filed your papers. Your clocked-in copy will serve as proof of the time and date you filed the paper.



Petition for Custody form. (*file the original and one copy*)

- Only a **natural** or **adoptive parent** or a **qualifying step-parent** may file for custody. If you are not one of the above and would like custody of that child, please see the Legal Care of a Child Overview to help you determine what type of petition you should file.
- The U.S. and Delaware State Constitutions require that whenever a petition is filed with the Court, **ALL** of the people involved with the case must be notified. By naming a person as a Respondent, you are asking the Court to notify him/her of the petition. In Custody cases the following people should be named as Respondent(s):
 - Any parent of the child;
 - Any guardian of the child or the person with whom the child is living;
 - Any Guardian ad Litem of the child;
 - Any organization having custody of the child (for example, the Division of Family Services).

If you fail to notify any of the necessary parties, your petition is deficient and you may have to start the process over, including paying another filing fee.

- When alleging facts in your Petition for Custody, you want to give the Court information so that it can decide what custody arrangement is in the child's "**best interest.**" The child's "best interest" is the legal standard the Court must follow when deciding who should have custody of a child. (See Title 13 of the Delaware Code, section 722.) The Court will want to know about the following things when deciding what is in the child's "best interest." Explain to the Court how the following things apply to your situation.

1. The wishes of the child's parents as to his/her custody and living arrangements;
2. The wishes of the child as to his/her custody and living arrangements;
3. The interaction of the child with his/her parents, brothers and sisters, grandparents and any people living in the child's home or affecting the child's best interest;
4. The child's adjustment to his/her home, school and community;
5. The mental and physical health of all individuals involved;
6. How well each parent has in the past and currently satisfies their parental rights and responsibilities with respect to their children;
7. Evidence of domestic violence; and
8. The criminal history of any party or other resident of a household, including guilty pleas, pleas of no contest and criminal convictions.

The Court can also consider any other information pertaining to the best interest of the child.

- When writing down your allegations, you should list each point that you want to make in its own **numbered paragraph**. This will make it easier for the Court and the Respondent to understand why you think you should have custody of the child. An example of numbered paragraphs can be found on the Sample Petition for Custody found at the end of this section (see page 10).
- If you need more space to write, you may attach additional pages to the Petition for Custody. Be sure to state on the petition that you have attached more pages, so the Court and the Respondent will know to look for additional information. The Court will not consider parents' conduct that does not affect the child. Furthermore, the Court does not believe one parent is better than the other because of his or her sex.
- You must sign your Petition for Custody in the presence of a notary public or authorized Court staff.



Custody Separate Statement form. (file the original and one copy)

- The Custody Separate Statement explains to the Court a child's past and present living arrangements, so the Court can determine if it has authority to decide your Petition for Custody. If all of your children have had the **same living arrangements as one another** for the past five years, then you may include all children on a single form. However, if your children have **lived apart** from each other sometime during the past five years, you must complete a separate form for each child. For example, if last year, your daughter resided with you and your son resided with the other parent, it would be necessary to file two Custody Separate Statements, explaining where each child lived.



Information Sheet form. (file the original and one copy)

- This form provides the Court with general information about the parties that allows the Court to adequately notify the parties about upcoming proceedings and to maintain up-to-date records.

BELOW ARE OPTIONAL FORMS

ONLY file the following forms if the situation applies to you.



Affidavit that a Party's Address is Unknown form. (file the original and one copy)

- **ONLY** file this form if you do **NOT** know where the Respondent(s) lives.
- You must provide the Court with each Respondent's current address. If you do not know where the Respondent(s) currently lives, you must **try to locate** him or her. Ways to do this include talking to the Respondent's friends or relatives or checking the Internet. If, after looking for the Respondent(s), you cannot find his/her current address, you must complete this form. **Do not complete** this form until you have made an effort to locate the Respondent(s).
- You must complete this form before you publish notice of the matter in the newspaper. Please see pages 17-18 for more information regarding Notice by Publication.
- This form is not in the Forms Packet. This form is available in the Family Court Resource Centers.



Consent Order-Custody, Visitation form. (*file one original*)

- File this document only if **you and the Respondent(s) have already agreed** on how the custody matters should be decided.
- On this form you will describe for the Court the following things:
 - Which parent will have custody of the child,
 - Whether that parent will have Joint Custody or Sole Custody (see page 34 for information about the types of custody),

- Where the child will be living,
 - Which parent will have visitation with the child, and
 - What the visitation schedule will be.
- When describing the visitation schedule, be as **specific** as possible. Explain the places, dates and times that visitation will occur. Also, explain to the Court who will be responsible for driving the child to and from the visitations. Avoid agreements that simply state that “visitation shall be by mutual agreement of the parties.” While this may make it easier for you and the Respondent to reach an agreement now, it gives you no guidance in how visitation will occur should you and the Respondent be unable to reach a mutual agreement regarding visitation at a later date. It may be better to decide on the details of visitation now, rather than have to come back to Court to resolve your differences in the future. For more information about visitation, please see page 35. You may also refer to the Visitation Overview and Instruction Packet.
- You and the Respondent must both sign and have notarized the Consent Order.
- Before you file the Consent Order, you and the Respondent(s) **may** have to meet with a court employee to review the terms of your agreement.
- Once you have filed your agreement with the Court, it will be forwarded to a Commissioner who will review your agreement. If the Commissioner finds that the agreement is in the best interest of the child, then he or she will sign the agreement and it will become a court order, called a **Consent Order**.
- Once the Commissioner signs the Consent Order, it is a court order and you and the Respondent **MUST** follow the instructions in the Order. The Court will mail a copy of the signed order to you and the Respondent(s).
- If circumstances change in the future, you may be able to change the terms of the Consent Order by filing to modify custody. See the

Modification of Custody Overview and Instruction Packet for more information on how to change a custody order.

- The Consent Order is **NOT** included in the Forms Packet. This form is available in the Family Court Resource Centers.



Waiver of Rights under the Servicemembers' Civil Relief Act form. (*file the original and one copy*) **Complete this section ONLY if the Respondent IS in the military.**

- If the Respondent(s) is in the military, the Respondent(s) must file an Answer, an Affidavit of Appearance or **YOU** must have the Respondent(s) sign a Waiver of Rights under the Servicemembers' Civil Relief Act. If the Respondent(s) does not file one of these documents, you must file a **Motion to Appoint an Attorney**. You should start this process as soon as possible because it takes time. The Court will not schedule your custody hearing until you complete this process.
- If there are multiple Respondents who are in the military, a separate form must be filed for each Respondent.



BE SPECIFIC WHEN COMPLETING THE FORMS and make sure you address **ALL** of the areas explained on page 9 in your petition. When you complete a form, write in blue or black ink **AND** write neatly.



File the forms at the Family Court **in the County where the child currently lives**. If the child does not currently live in Delaware, you should talk to an attorney before filing to make sure the Delaware Family Court is the right Court to hear your case and to find out in which state and county you should file.

- In Kent and Sussex Counties you may file your papers at the Resource Centers on the first floor of the Family Court buildings.

- In New Castle County, you may file your papers at the Resource Center on the second floor of the New Castle County Courthouse or, **IF**, you have all of the forms completed, you do **NOT** have any questions, you have made the necessary copies and you do **NOT** need any papers notarized, you may file your papers at the **Central Filing and Payment Center** located on the first floor of the New Castle County Courthouse. There is no staff assistance at the **Central Filing and Payment Center**.
- If you file your papers by mail, the addresses for each courthouse are available on the Family Court website. The Court does **NOT** accept filings that are faxed or e-mailed.



A filing fee is charged for each petition that is filed. The filing fee can differ depending on the type of petition you are filing. To find out what the filing fee is, you can look at the Family Court website or go to the Family Court Resource Centers. The filing fee can be paid in cash, by credit card, by debit card, by check or by money order made payable to “Family Court”. If you are filing by mail, you may only pay by check or money order. **FAMILY COURT WILL NOT ACCEPT YOUR PAPERS WITHOUT THE FILING FEE.** There are additional costs if you must publish notice of this action. (See page 17-18 for more information of when publication is necessary.)

ADDITIONAL INSTRUCTIONS FOR SECTION 1



SERVICE OF PROCESS

Each Respondent **must receive** a copy of the Petition for Custody. The delivery of the Petition for Custody and any other forms you file is called **Service of Process**. The way that you accomplish Service of Process depends on how much information you can provide the Court about where the Respondent(s) lives. Determine from the following options how Service of Process should be accomplished in your case.

❑ **The Respondent Lives in Delaware and You Know His/Her Address**

If the Respondent lives in Delaware **AND** you know his/her address, a **Process Server** (someone whose job involves delivering Court papers) will give a copy of your petition and other papers to the Respondent(s). This is called **Personal Service**. You do not need to fill out any additional paperwork.

❑ **The Respondent Does Not Live in Delaware and You Know His/Her Address**

If a Respondent(s) does **NOT** live in Delaware **AND** you know the Respondent's address, the Court will mail your papers *via* certified mail, return receipt requested, to the Respondent(s). If delivery of the certified mail is unsuccessful, **YOU** must publish **AT YOUR EXPENSE** a legal notice of your petition in an approved newspaper in the county and state where the Respondent(s) lives. This is referred to as **Service of Process by Mail and Publication**. You must also complete an Affidavit that Address is Unknown form (see page 12). The Court will notify you by mail if you need to publish notice in the newspaper.

❑ **You Do Not Know Where the Respondent Lives or Works**

If you do **NOT** know where a Respondent lives or works and therefore the Process Server cannot deliver your petition to that Respondent, **YOU** must publish **AT YOUR EXPENSE** a legal notice of your petition in an approved

newspaper in the county and state where the Respondent's last known address was located. You must also complete an Affidavit that Address is Unknown form (see page 12).



PUBLICATION

- Instructions on how to publish notice of a court action are available in the Resource Centers. It is important to carefully follow the instructions for publication. If you do not publish the notice properly, your Petition for Custody could be dismissed.
- You must publish the notice **in the county where the Respondent(s) resides or in the county where the Respondent's last known address was located**. You are responsible for contacting the newspaper and paying the necessary publication fee to the newspaper.
- If you must publish the notice, **YOU** must provide **PROOF** to the Court that you published the notice. If the Court does **NOT** receive satisfactory proof of publication **WITHIN 30 DAYS** from the date that you filed your Petition for Custody, the Court may dismiss your case and you will have to start all over again, including paying another filing fee.
- You may publish in the following **approved Delaware newspapers** depending on where the Respondent(s) resides.
 - **New Castle County**
News Journal
950 W. Basin Road
New Castle, Delaware 19720
(302) 324-2500
 - **Kent County**
Delaware State News
421 Webb's Lane
Dover, Delaware 19903
(302) 674-3600

- **Sussex County**
Sussex Countian
 P.O. Box 40 (13 South Front Street)
 Georgetown, Delaware 19947
 (302) 855-7400

- If you must publish in an out-of-state newspaper, you should select a newspaper that is widely distributed in the area where the Respondent(s) lives (or last lived if you do not know the address) **AND** the newspaper should be one which the Respondent(s) would most likely read.



THE ANSWER

- Once the Respondent(s) has been served with the Petition for Custody, each Respondent(s) has **20 days** from the date of service (the date that the court papers are delivered to the Respondent(s)) to respond by filing an **Answer** to your Petition for Custody. If there is more than one Respondent in your case, each Respondent must file his/her own separate Answer. You should receive a copy of the Respondent's Answer in the mail from the Respondent.
- On the Answer to your Petition for Custody, the Respondent(s) must **admit** (agree with) or **deny** (disagree with) each of the statements you made in your petition. The Respondent(s) may explain why he/she disagrees with the statement.



AUTOMATIC COURT ORDER

- When you file a Petition for Custody, Family Court immediately enters a **Preliminary Injunction** (an automatic **Court Order**) that applies to **BOTH YOU AND THE RESPONDENT(S)**. It becomes effective **UPON YOU as soon as you file** the Petition for Custody. You will receive a copy of the Preliminary Injunction when you file the petition. The Preliminary

Injunction becomes effective upon the Respondent(s) at the time the Respondent(s) **is served** with the petition.

- The Preliminary Injunction contains language that prohibits any party from removing a child from the jurisdiction of the Delaware Family Court without receiving permission from the other party or the Court.
- The purpose of the Preliminary Injunction is to prevent a person from **permanently** removing the child from Delaware, or from removing the child for a period of time that would interfere with the other person's right to spend time with the child and participate in the child's life. **NEITHER YOU NOR THE RESPONDENT MAY RELOCATE (MOVE) THE CHILD TO ANOTHER STATE OR TAKE THE CHILD OUT OF DELAWARE FOR A PERIOD OF TIME THAT WOULD CAUSE FAMILY COURT TO LOSE LEGAL AUTHORITY (JURISDICTION) TO DETERMINE THE CUSTODY CASE.** If you have questions regarding the relocation of a child, you should contact an attorney.

SECTION 2 BEGINS AFTER THE SAMPLE FORMS FOR SECTION 1.



**YOU SHOULD BEGIN SECTION 2 ONCE
YOU HAVE FILED THE FORMS
IN SECTION 1.**

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

PETITION FOR CUSTODY

Check the county in which you are filing.

Petitioner

Name	Anne C. Smith		
Street Address	101 Oak Street		
Apt. or P.O. Box Number	Apt. # 123		
City	State	Zip Code	
Dover	DE	19901	
Social Security Number	Date of Birth		
111-22-3333	2/3/64		
Attorney Name and Phone Number	n/a		

Respondent

Name	John D. Smith		
Street Address	490 Pine Street		
Apt. or P.O. Box Number			
City	State	Zip Code	
Wilmington	DE	19899	
Social Security Number	Date of Birth		
787-98-6767	7/13/65		
Attorney Name and Phone Number	n/a		

Petition Number

IN THE INTEREST OF the following child(ren):

Name	Date of Birth	Name	Date of Birth
Doug A. Smith	10/14/91	Mary J. Smith	4/17/96
Name	Date of Birth	Name	Date of Birth
Name	Date of Birth	Name	Date of Birth

The said child(ren) live with (Name): Anne C. Smith

Relationship to child(ren): Mother

101 Oak Street, Apt. # 123 Dover DE 19901
(STREET ADDRESS) (CITY) (STATE) (ZIP CODE)

Petitioner alleges the following facts: (Please list in consecutively numbered paragraphs. Attach additional pages if needed.)

1. Mother and Father are currently going through a divorce.
2. The children have resided with Mother since the parties separated in January 2004.
3. The children are now attending school in the Capitol School District and are excelling in their classes. It is not in the child's best interest to be removed from their school and friends.
4. The children enjoy spending time with their cousins who reside in Dover. It is not in the best interest of the children to be removed from their extended family in Dover.

List your allegations in numbered paragraphs.

WHEREFORE, Petitioner prays that a Summons issue to the above-named person(s) and the person(s) listed in Paragraph 5 of the attached Separate Statement, and the that the Court grant Custody of the above-named child(ren) to Petitioner and enter such Orders as may be in the best interest of the child(ren). The attached Statement is incorporated and made part hereof.

SWORN TO AND SUBSCRIBED
before me this date,

Signed by notary or court staff. *March 17, 2004*
Donna King
Notary Public/Clerk of Court

Sign in the presence of a notary.

Anne C. Smith
Movant/Attorney



The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County


Check the county in which you are filing.

CUSTODY SEPARATE STATEMENT IN COMPLIANCE WITH


TITLE 13, SECTION 1928 OF THE DELAWARE CODE


 Petitioner Anne C. Smith	 Respondent John D. Smith	File No.:
---------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------	-----------

 1. What type of petition are you filing? Petition for Custody


 2. Who is the child(ren) named in your petition? (Please provide full name and date of birth)

Doug A. Smith	10/14/91	Mary J. Smith	4/17/96

 3. Have all the children listed above continually resided with one another? ☒ Yes ☐ No
If you answered "No," the children have not continually resided with one another, please complete a Custody Separate Statement for each child.

 4. Where is the child(ren) living as of today's date?

101 Oak Street, Apt. #123	Dover	DE	19901
Street Address	City	State	Zip Code
Anne C. Smith	Mother		
Name of person(s) child(ren) is living with	Relationship to child(ren)		

 5. During the past five years, where have the child(ren) lived? *List addresses from the most recent to the oldest beginning with the address where the child(ren) currently lives. If the child(ren) is under the age of five years old end with the first address where the child lived.*

Address where child(ren) currently resides	City	State	Zip Code
101 Oak Street, Apt. #123	Dover	DE	19901
Date child(ren) lived there	Name of person(s) child(ren) is living with	Relationship to child(ren)	
1/1/2004-present	Anne C. Smith	Mother	
Person's current address	City	State	Zip Code
same as above			

Address where the child(ren) lived before that.	City	State	Zip Code
490 Pine Street	Wilmington	DE	19899
Date child(ren) lived there	Name of person(s) child(ren) is living with	Relationship to child(ren)	
8/10/2002-12/31/2003	John and Anne Smith	Parents	
Person's current address	City	State	Zip Code
490 Pine Street	Wilmington	DE	19899

Address where the child(ren) lived before that.	City	State	Zip Code
6160 Beachfront Drive	Virginia Beach	VA	23464
Date child(ren) lived there	Name of person(s) child(ren) is living with	Relationship to child(ren)	
Birth to 8/10/2002	John and Anne Smith	Parents	
Person's current address	City	State	Zip Code
Same as above			

Address where the child(ren) lived before that.		City	State	Zip Code
Date child(ren) lived there	Name of person(s) child(ren) is living with		Relationship to child(ren)	
Person's current address		City	State	Zip Code



6. Check **ONE** and complete as directed.

☒
☐

I have not been involved in any other court action for custody and/or visitation of this child(ren).
I have been involved in another court action for custody and/or visitation of this child(ren). *If you check this box, complete the information below. Attach additional sheets if necessary.*

TYPE OF ACTION (custody, visitation or modification)	PERSON who filed action	STATE action was filed in	COURT where the action was filed
DATE action was filed	CASE NUMBER	RESULT of action	DATE OF ORDER

TYPE OF ACTION (custody, visitation or modification)	PERSON who filed action	STATE action was filed in	COURT where the action was filed
DATE action was filed	CASE NUMBER	RESULT of action	DATE OF ORDER



7. Check **ONE** and complete as directed.

☐
☒

I do not know of any other court action such as, Protection From Abuse, Termination of Parental Rights, Guardianship, Adoption or Paternity involving myself, the other party or the child(ren) that could affect this petition.
I, the other party or the child(ren) have been and/or are currently involved in another court action such as, Protection From Abuse, Termination of Parental Rights, Guardianship or Adoption, that could affect this petition. *If you check this box, complete the information below. Attach additional sheets if necessary.*

TYPE OF ACTION (PFA, TPR, Guardianship, Adoption)	PERSON who filed action	STATE action was filed in	COURT where the action was filed
PFA	Anne C. Smith	DE	Family Court
DATE action was filed	CASE NUMBER		
12/31/04	CK04-12111		

TYPE OF ACTION (PFA, TPR, Guardianship, Adoption)	PERSON who filed action	STATE action was filed in	COURT where the action was filed
DATE action was filed	CASE NUMBER		

Check **ONE** and complete as directed.

- ☒ No one other than the parties have physical custody, legal custody or visitation rights with the child(ren).
- ☐ A person(s) other than the parties have physical custody, legal custody or visitation rights with the child(ren). *If you check this box, complete the information below. Attach additional sheets if necessary.*

Name of person(s) child(ren) is living with		Relationship to child(ren)	
Address of person(s) where child(ren) reside		City	State
			Zip Code

Name of person(s) child(ren) is living with		Relationship to child(ren)	
Address of person(s) where child(ren) reside		City	State
			Zip Code

SWORN TO AND SUBSCRIBED
before me this date,

March 17, 2004



Sign in the
presence of
a notary.



Anne C. Smith

Petitioner



Signed
by
notary or
court
staff.

Donna King
Notary Public

The Family Court of the State of Delaware

Fill in the
date you file
the form.



INFORMATION SHEET - PLEASE PRINT

Date: March 17, 2004 File No. : _____

Please fill in A to K pertaining to you the Applicant (Petitioner).



A. Name: Anne C. Smith



B. Address: 101 Oak Street, Apartment #123
Dover, Delaware 19901



C. Phone: Home: (302) 555-1111 Work: (302) 555-9999



D. Employer & Work Address: ABC Child Care Center, 500 Pine Street, Dover, Delaware 19904

Hours/Shift: 7:30 to 4:30 Monday-Friday



E. Social Security No.: 111-22-3333 F. Date of Birth: 2/3/64



G. Description: Sex: F Race: white Height: 5'4" Weight: 135 lbs Hair: blond Eyes: brown

Marks/Scars/Tattoos: none



H. Type of Vehicle operated by you: 1998 Honda Accord



I. Driver's License: DE 7654 J. Your relationship to the Defendant/Respondent: spouse
State and Number



K. Attorney: none

If you are filing for Custody, Visitation, Support or Petition for Protection from Abuse please fill out the information needed below in reference to the child(ren) who are involved..

Children (Custody/Visitation/Support/Petition for Protection from Abuse)

Name	Relationship	Sex	Date of Birth
<u>Doug A. Smith</u>	<u>Son</u>	<u>Male</u>	<u>10 / 14 / 91</u>
<u>Mary J. Smith</u>	<u>Daughter</u>	<u>Female</u>	<u>4 / 17 / 96</u>
			<u>/ /</u>
			<u>/ /</u>
			<u>/ /</u>
			<u>/ /</u>
			<u>/ /</u>

Please fill in L to X pertaining to the Defendant/Respondent..(For additional respondents use additional sheets)

L. Defendant/Respondent is a: (Check One) ☒ **ADULT** ☐ **JUVENILE**

M. Name: John D. Smith

N. Address: 490 Pine Street

Wilmington, Delaware 19899

O. Phone: Home: (302) 555-9876 Work: (302) 555-3434

P. Employer and Work Address: XYZ Corporation, 67 Walnut Avenue, Newark, Delaware 19867

Hours/Shift: 9 am -5pm, Monday-Friday

Q. Social Security No.: 787-98-6767

R. Date of Birth: 7/13/65

S. Description: Sex: M Race: white Height: 6'0" Weight: 190 lbs Hair: black Eyes: brown

Marks/Scars/Tattoos: tattoo of an eagle on right shoulder

T. Drivers License No.: DE93765

U. Type of vehicle operated by Defendant/Respondent 99 Trailblazer

V. Parent's Name (if a Juvenile): _____

W. Time when Respondent is usually home: 7pm-6:30 am, Monday-Friday and Mornings on the weekends

List places where the Respondent spends time other than at home or at work.

X. Any additional information about Respondent that may aid the process server in locating him/her to serve this petition: _____

If you are unable to locate the Respondent at his place of residence or his place of employment, he spends a lot of time at brother's house which is located at 775 Spruce Lane, Newark, DE 19867.

Write directions to each address list on this form to make sure that the process serve can locate the Respondent.

DIRECTIONS TO RESPONDENT'S RESIDENCE

Home: Go west on 8th Street until you reach Pine Street. Turn right and go 3 and a half blocks. The Respondent's house is on the right and is white with blue shutters.

Work: Take I-95 towards Baltimore. Get off at Exit 10 and take your first right onto Cherry Drive. Go about a mile and a half. Turn left onto Walnut Ave. XYZ Corporation is on your left.

Brother: Go two blocks past Respondent's home to 10th Street. Turn left and go one block to Spruce Lane. Turn right. It is the second house on the right. The house is green.

The Family Court of the State of Delaware

in and for ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

AFFIDAVIT THAT A PARTY'S ADDRESS IS UNKNOWN

Petitioner

Last First MI
Smith Anne C.

Respondent

Last First MI
Smith John D.

File No.

CPI No.

Fill in the county in which you are filing.

State of Delaware
Kent County)

SS.

Fill in the date you have the form notarized.

BE IT REMEMBERED, that on this 17th day of March, 2004, personally appeared before me, a Notary Public for the State and County aforesaid, Anne C. Smith, ("Affiant"), who, being by me duly sworn according to law did depose and say:

The person filling out the form is the "Affiant" and his/her name goes here.

1. My name is Anne C. Smith

2. I do not know the current address and/or telephone number, nor do I know anyone who could provide me with the current address and/or telephone number of John D. Smith. I have contacted his/her (Please check as appropriate) ☐ Parent ☐ Spouse ☐ Employer ☒ Other: Respondent's Brother. His/Her last known address and telephone number were:

490 Pine Street

Wilmington, Delaware 19899

Fill in the date that the Respondent last lived at the above address.

as of January 10, 2004.

3. I have had no contact with him/her since January 1, 2004.

4. I have been informed of my responsibility to accomplish publication and my failure to do so will result in the petition being dismissed.

5. The information contained herein is true and correct to the best of my knowledge and belief.



Sign in the presence of a notary.



Anne C. Smith

Affiant

SWORN TO AND SUBSCRIBED before me the day and year aforesaid.



Signed by notary or court staff.

Donna King

Notary Public

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

CONSENT ORDER – CUSTODY, VISITATION

Petitioner

v. Respondent

Name Anne C. Smith	Name John D. Smith	File Number CK04-12111
Street Address 10 Oak Street	Street Address 490 Pine Street	
Apt. or P.O. Box Number Apt. #123	Apt. or P.O. Box Number	Petition Number 04-42301
City Dover State DE Zip Code 19901	City Wilmington State DE Zip Code 19899	
Attorney Name and Phone Number n/a	Attorney Name and Phone Number n/a	

IN THE INTEREST OF the following child(ren):

Name (Child #1) Doug A. Smith	Date of Birth 10/14/91	Name (Child #2) Mary J. Smith	Date of Birth 4/17/96
Name (Child #3)	Date of Birth	Name (Child #4)	Date of Birth
Name (Child #5)	Date of Birth	Name (Child #6)	Date of Birth

The parties in the above-entitled case hereby agree upon the following arrangement and do consent to the entry of an Order providing for the same:

Type of Custody: ☒ Joint Custody ☐ Sole Custody

Custody Awarded to: **Anne C. Smith and John D. Smith**

Physical Placement with: **Anne C. Smith**

Relationship: **Mother**

Address: **10 Oak Street, Apt. #123**

Dover, DE 19901

Visitation Awarded to: **John D. Smith**

Relationship: **Father**

Address: **490 Pine Street**

Wilmington, DE 19899

Check which type of custody you have agreed upon. If you check Joint Custody, you must list both parents on the next line. If you check Sole Custody list only one of the parents on the next line.

Fill in the name of the parent that the child is going to live with most of the time.

OVER

Describe the visitation schedule you have agreed on in detail.

Visitation shall be as follows:

Father shall have visitation with the children every other weekend beginning the first weekend in August. Father will pick the children up from school on Friday afternoon and will have them with him until 4 p.m. on Sunday afternoon. Mother and Father will meet at the McDonald's in Middletown to exchange the children at 4pm on Sunday afternoons. Both parties will try to be on time, but if one is running late, he/she will call the other's cell phone and let him/her know of the delay.

Father shall have visitation with the children every Wednesday evening from 6:30 to 8:30 p.m. Father will pick the children up at Mother's house and will drop them off at Mother's house. If there is a school activity on Wednesday evening so that the child(ren) cannot visit with Father, then Tuesday evening may be substituted.

Father and Mother will follow the visitation schedule set forth in the Standard Visitation Guidelines regarding holidays except for Christmas. Mother will have the holidays in Column 1 on odd years and the holidays in Column 2 on even years. Father will have the holidays in Column 1 on even years and the holidays in Column 2 on odd years. The children will spend all of Christmas Eve with Mother every year and all of Christmas Day with Father every year. Mother will drop the children off at Father's home at 9pm on Christmas Eve and Father will keep the children until 4pm the afternoon before school resumes after Winter Break. Father will drop the children off at Mother's house that afternoon.

Mother will have the children for all of Spring Break.

Fill in the date you have the form notarized.

Affidavit of Consent

Be it remembered that on July 20, 2004, the above named petitioner and respondent personally came before me, the subscriber, a Notary Public for the State and County listed below, who being duly sworn to law did depose and say: I, the undersigned hereby agree upon the following custodial/visitation agreement for the above-named child(ren). I have signed this consent agreement voluntarily and of my own free will.

We hereby waive our right to a Review of a Commissioner's Agreement

Sign in the presence of a notary or court staff.

Order is entered pursuant to this Voluntary

Anne C. Smith

John D. Smith

Petitioner

Respondent

State of Delaware

State of Delaware

County of Kent

County of Kent

Sworn to subscribed before me:

Sworn to subscribed before me:

Donna King

Mediator/Notary Public

Donna King

Mediator/Notary Public

So Ordered this Date:

Signed by Commissioner.

Commissioner

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

IN RE THE MARRIAGE OF



Anne C. Smith

Petitioner,

and

John D. Smith

Respondent,

File No.: _____

Petition No.: _____

Check the county in which you are filing.

WAIVER OF RIGHTS UNDER THE "SERVICEMEMBERS CIVIL RELIEF ACT"

STATE OF DELAWARE

Kent

COUNTY

Check the county in which you are filing.

ss.

Fill in the date you have the form notarized.

BE IT REMEMBERED, that on this date, March 25, 2004, personally appeared before me, a Notary Public for the State of Delaware in the County declared above, John D. Smith, ("Affiant"), who, being duly sworn by me according to law, did depose and say:

1. That Affiant is the Respondent in the above captioned case.
2. That Affiant is active duty in the United States military: a
3. The Affiant waives his/her rights under the "Servicemembers Civil Relief Act" and so acknowledges that he/she, or his/her attorney, will be required to appear at all legal proceedings associated with the above captioned case.

The "Affiant" is the Respondent. ONLY the Respondent may complete this form. If you are the Petitioner in this proceeding, you may not fill out this form.



Sign in the presence of a notary or court staff.

John D. Smith

Respondent ("Affiant")

SWORN TO AND SUBSCRIBED before me this date, March 25, 2004



Signed by notary or court staff.

Donna Young

Notary Public or Clerk of Court

Section 2

PARENT EDUCATION CLASSES



You **MUST** file the certificate below:



Certificate(s) of Completion of Parent Education Class. *(file original(s))*

- All parents with children under the age of 17 must take a Parent Education Class. If your child is between the ages of **8 and 16**, he or she must also attend the class. A listing of available classes is available at the Family Court Resource Centers. Once you and your child have completed the Parent Education Class, a Certificate(s) of Completion of Parent Education Class will be given to you. You must file the **ORIGINAL** copy(ies) of the Certificate of Completion of Parent Education Class with the Family Court.
- Although the matter may be scheduled for Mediation before you have completed your parent Education Class, the Court will **NOT** schedule your Court Hearing before a Judge until you file the required Certificate(s) of Completion.
- You should register for the Parent Education Classes **AS SOON AS POSSIBLE** because the classes tend to fill quickly and you may be placed on a waiting list.
- The parent with whom the child primarily lives is responsible for taking the child to the classes and filing the original Certificate of Completion. If your child lives with you and the other parent equally, then you, as the person who filed the Petition for Custody, are responsible for taking the children to the classes and filing the original Certificate of Completion.

- If your child **DOES** have to attend the seminars, we suggest you take the children to a provider that offers both the parent seminars **AND** the children seminars to save yourself time and money.



**SECTION 3 DESCRIBES WHAT
HAPPENS NEXT.**

Section 3

MEDIATION



After all of the Respondents have been served with the Petition for Custody and each of the Respondents has had an opportunity to file an Answer, the Court normally will schedule your custody matter for **Mediation**. **ALL PARTIES** are required to attend.

- The Court will **NOT** schedule Mediation if there is an active **No Contact Order** involving you and the Respondent(s) or there has been a previous finding of domestic violence such as the following:

- A Protection from Abuse Order, **OR**
- An adjudication of criminal charges.

If there is an active No Contact Order involving you and the Respondent(s), you will **NOT** attend Mediation and the Court will schedule a Court Hearing before a Judge.

- Mediation is **NOT** a Court Hearing. At Mediation, a Mediator (a neutral third party) will **try to help** you and the Respondent(s) reach an agreement about custody. The Mediator will ask you and the other parent to tell how you both think the matter should be resolved and will work with you to find a solution that is agreeable to both of you. In other words, the Mediator is there to help you and the other parent work together in deciding what arrangement is best for your child. Therefore, try your best to come with a “spirit of cooperation.”



CONSENT ORDERS

- If, at the end of Mediation, you and the other parent reach an agreement, the Mediator will type your agreement into a document and you and the Respondent(s) will sign the agreement. The Mediator will also sign the agreement. Then, you will be allowed to

leave and the Mediator will give your signed agreement to a Commissioner. The Commissioner will decide whether your agreement should become a court order, called a **Consent Order**.

- If the Commissioner decides your agreement should become a Consent Order, the Commissioner will sign the agreement and the Consent Order will be mailed to you and the Respondent(s). You will **NOT** have to go to a Hearing with a Judge. Most often, the Commissioner will sign a Consent Order proposed by a Mediator.
- Once a consent Order is signed by a Commissioner, it is a court order and you and the Respondent(s) **MUST** follow the terms of the Order.
- If circumstances change in the future, you may be able to change the terms of the Consent Order by filing to modify custody. See the Modification of Custody Overview and Instruction Packet for more information about changing a custody order.



TEMPORARY ORDERS

- If you and the other parent do **NOT** reach an agreement at Mediation, the **Mediator** will suggest a **Temporary (Interim) Order** for a Judge to sign. A temporary order is entered so that both parents can have contact with the child while the parties are waiting for their hearing to be scheduled.
- A Judge will review the suggested Order and will either sign it as an Interim Order or will change some of the terms before signing it as an Interim Order. The case will then be scheduled for a Court Hearing after you complete the parent education class. The Interim Order will remain in effect until another Court Order is issued. You and the Respondent(s) **MUST** follow the terms of the Interim Order until that time.
- As an alternative, **you and the other parent** may reach a **temporary** agreement at Mediation. This agreement would be made

with the intent that it should only last until the Judge makes a decision after your Court Hearing. If you do this, the Mediator will type your temporary agreement into a document and you and the other parent will sign the temporary agreement. The Mediator also will sign the temporary agreement. Thereafter, you will be allowed to leave and the Mediator will give your signed temporary agreement to a Commissioner. The Commissioner will decide whether your temporary agreement should become a court order, which is called an **Interim Consent Order**.



Because some kind of Order **will be issued** after Mediation, whether it is a Consent Order or a Temporary (Interim) Order, come to Mediation prepared to discuss how the following matters should be addressed in a Custody Order.

❑ **PARENTAL DUTY AND RESPONSIBILITY**

- Because it is usually in the best interest of the child to have both parents active in his/her life, the Court generally orders **Joint Custody**, in which parents share the duties and responsibilities of raising the child. Under this arrangement, each parent must care for, support, discipline and make decisions about the child's medical, educational, religious, health and social needs. Parents are expected to share information, discuss and decide together major issues regarding the child.
- If you want **Sole Custody**, an arrangement where the other parent does not actively share in the duties and responsibilities of raising the child, you must demonstrate that such an arrangement is in the child's best interest. (For more information on the best interest of a child see page 9)
- Generally, no matter how the parental duties and responsibilities are shared, each parent will have the right to request information concerning the child's progress in school, medical treatment,

significant developments in the child's life, school activities and conferences, special religious events and other activities in which the parent may wish to participate. Also, each parent will have the right to reasonable access to the child by telephone or mail.

□ **PLACEMENT**

- Another aspect of the Custody Order involves where the child will live most of the time. The Custody Order will state whether the child should live primarily with one parent or spend equal time living with each parent. If the Court determines the child should live mostly with one parent, that parent has **primary placement** of the child. Placement is determined according to what is in the **CHILD'S** best interest, not the parent's best interest.

□ **VISITATION**

- Generally, when the Court addresses Custody, it will also address Visitation to enable the parent not given primary placement to spend time with the child. Visitation establishes a schedule of contact with the child. For more information on Visitation please read the Visitation Overview and Instruction Packet.
- You should review the Family Court's **Standard Visitation Guidelines** to get a general idea of visitation arrangements. The Standard Visitation Guidelines are on the Family Court website. Consider whether the Standard Visitation Guidelines accommodate your and the Respondent's schedule as well as the schedule of the child. You are not required to follow the Standard Visitation Guidelines. At Mediation, you and the Respondent can work together to establish a visitation schedule that works best for you, Respondent(s), and **most importantly** your child.



Be realistic when asking for the terms of a custody order. The law says that it is better for a child to have at least some contact with both parents unless that contact would endanger the child's physical health or significantly impair his or her emotional development. The focus is on what is in the **CHILD'S best interests**. Just because **YOU** do not want the other parent to be involved in the child's life may not mean that is in your **CHILD'S** best interest. Therefore, at Mediation, be prepared and try to work with the other parent to accommodate the other parent's right to a continuing relationship with the child.



**IF YOU REACHED AN
AGREEMENT AT
MEDIATION, THIS IS
THE END OF THE
PACKET.
OTHERWISE, GO TO
SECTION 4.**

Section 4

HEARING WITH A JUDGE

SCHEDULING THE HEARING



A **Court Hearing** will be scheduled by the Court **ONLY** if:

- The Mediation was unsuccessful (no agreement or a temporary agreement was reached) **OR** Mediation was not required; **AND**
- The original **Certificate(s) of Completion** for the Parent Education Class has been filed. **THE COURT WILL NOT SCHEDULE A HEARING UNTIL THE CERTIFICATE(S) OF COMPLETION HAVE BEEN FILED WITH THE COURT.**

You do not need to file any additional paperwork to have your hearing scheduled. The Court will notify you when your hearing is scheduled, by mailing you a **Notice** to inform you of the time and date of the **Court Hearing**.



Some judges may schedule a **pre-trial hearing**. The purpose of this hearing is to discuss the status of your case prior to scheduling a full evidentiary hearing where you will present evidence and call witnesses.



If you cannot attend the scheduled hearing (pre-trial or evidentiary), you must file the following form:



Motion for Continuance. (*file one original and mail one copy to the Respondent*)

- If, once you receive your Notice, you cannot attend the scheduled pre-trial or evidentiary hearing, you must contact the Court **IMMEDIATELY** by filing a **Motion for Continuance**. **DO NOT** call the Court. On this Motion, you must state **very specific reasons**

why you cannot attend the hearing. You must have a legal and unavoidable reason for needing to reschedule the hearing. You cannot request a continuance simply because it is not convenient for you to attend the hearing on the scheduled day. Before you file the Motion for Continuance, you must contact the Respondent(s) regarding the continuance and then **tell the Court in your motion how the Respondent(s) feels about the continuance**. Because the law is very strict when it comes to rescheduling, these Motions are not always granted. Read the Motion Overview and Instruction Packet for more information about Motions.

- You will be notified by the Court if your Motion for Continuance has been granted. **UNLESS THE COURT GRANTS YOU A CONTINUANCE, YOU MUST APPEAR AT COURT THE DAY OF YOUR SCHEDULED HEARING.** If you fail to appear at your hearing, the Court may dismiss your custody petition. Then you will have to start the process again by filing a new Petition for Custody and paying another filing fee.

THE DAY OF THE HEARING



Complete the following form and bring it to Court with you on the day of your hearing.



Affidavit of Non-Military Service form.

- Under Federal law, if the Respondent has never filed an answer, or otherwise appeared in this custody/visitation matter, you must file an Affidavit of Non-Military Service on the day of the hearing. This tells the Court that the Respondent is not in the military, so the Court can enter an Order.



The Court Hearing is a Trial in front of a Judge. At the Court Hearing, you and the Respondent(s) will each be given an opportunity to tell your side of the case and ask witnesses questions. During the Court Hearing, the Judge expects you to follow a certain procedure. It is important that you are familiar with this procedure so you know what you are allowed to do, when you are allowed to talk, and how to tell your side of the story.



Family Court has developed a **Court Hearing Procedure Overview** that explains generally what the Court Hearing procedure is and should answer many of the questions you have about the procedure. Family Court also has developed a series of **Answers to Frequently Asked Questions on Your Court Hearing** to help you prepare and organize for your Court Hearing. It will be helpful to read this information before your scheduled hearing. All Overviews and Frequently Asked Questions are available in the Resource Centers located in each courthouse.



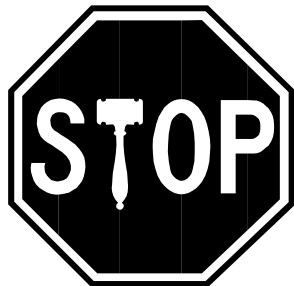
At the hearing, it is up to **YOU** to prove to the Judge **WHY** it is in the **child's best interest** for the Court to grant you what you are requesting in your

Petition for Custody. The best interest standard is explained on page 9 of this Instruction Packet. Review that information before the hearing, so you are prepared to present your case to the Court. You should come to Court prepared to offer evidence regarding **Parental Duty and Responsibility, Placement, and Visitation**. For more information on these topics see pages 34-35.



After both sides have presented all of their evidence, one of two things can happen. The Judge can **announce his/her decision** at the end of the hearing, in which case you will leave the Courthouse knowing what the custody arrangement is. **OR**, the Judge can **reserve decision**. When the Judge reserves decision, he/she considers all of the information presented during the hearing and issues a written order explaining the custody arrangement sometime after the hearing. Regardless of how the Judge issues the order, you should receive a copy of the Judge's decision, or Court Order, in the mail.

Once the Court has entered a Custody Order, you and the Respondent(s) should follow the terms of the Order. In other words you should do what the Order tells you to do. The Court will not enforce any agreements made by the parties that are not in a Court Order. If circumstances change, you and the Respondent(s) can change the Order by filing the proper petition. For information on how to change a custody order, please see the Modification of Custody Overview and Instruction Packet.



**THIS IS THE END
OF THE CUSTODY
INSTRUCTION
PACKET.**

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

MOTION FOR Continuance

Fill in the title of the motion that you are filing.

Petitioner

Respondent

Name Anne C. Smith		
Street Address 101 Oak Street		
Apt. or P.O. Box Number Apt. # 123		
City Dover	State DE	Zip Code 19901
Social Security Number 111-22-333	Date of Birth 2/3/64	
Attorney Name and Phone Number n/a		

Name John D. Smith		
Street Address 490 Pine Street		
Apt. or P.O. Box Number		
City Wilmington	State DE	Zip Code 19899
Social Security Number 787-98		
Attorney Name and Phone Number n/a		

File Number

CK04-12111

Petition Number

Fill in the type of hearing that is scheduled. This information appears on the Notice of Hearing you received in the mail.

A PROCEEDING involving **Custody** having been instituted in this Court, Movant hereby moves the Court for **a continuance** and, in support thereof, alleges the following facts:

Explain what you would like the court to order.

The parties' daughter, Mary Smith has suffered from severe tonsillitis. She is scheduled for surgery on November 30th, 2004, the date of the parties' custody hearing. I request that the Court grant a continuance so that I can be with my daughter while she is in surgery. I have contacted the Respondent and he agrees that a continuance should be granted.

Describe in detail for the Court why it should grant your motion. Tell the Court how the other party feels about your request.

SWORN TO AND SUBSCRIBED
before me this date,

Sign in the presence of a notary.

November 10, 2004

Anne C. Smith

Movant/Attorney

Donna King
Notary Public/Clerk of Court

Signed by notary or court staff.

I, the Movant, affirm that a true and correct copy of this Motion was placed in the U.S. Mail on this date

11/10/2004

Fill in the Respondent's name and the date that you mailed him/her a copy of the motion.

John D. Smith

, first class postage pre-paid.

SWORN TO AND SUBSCRIBED
before me this date,

Sign in the presence of a notary.

November 28, 2004

Anne C. Smith

Movant/Attorney

Donna King
Notary Public/Clerk of Court

Signed by notary or court staff.

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

In re the Marriage of:

Petitioner

Name Anne C. Smith		
Street Address 101 Oak Street		
Apt. or P.O. Box Number Apt. #123		
City Dover	State DE	Zip Code 19901
Social Security Number 111-22-3333		Date of Birth 2/3/64
Attorney Name and Phone Number n/a		

Respondent

Name John D. Smith		
Street Address 490 Pine Street		
Apt. or P.O. Box Number		
City Wilmington	State DE	Zip Code 19899
Social Security Number 787-98-6767		Date of Birth 7/13/65
Attorney Name and Phone Number n/a		

File Number CK04-12111
Petition Number 04-42301

The section below is to be completed by and signed in the presence of a Notary Public/Clerk of Court on the day of your Divorce/Annulment Hearing.

Fill in the county where you are filing,

AFFIDAVIT OF NON-MILITARY SERVICE

STATE OF DELAWARE)

Kent COUNTY)

SS.)

Fill in the date you have the form notarized.

BE IT REMEMBERED, that on this date, November 30, 2004, personally appeared Before me, a Notary Public for the State of Delaware in the County declared above, Anne C. Smith, ("Affiant"), who, being duly sworn by me according to law, did depose and say:

1. That Affiant is the Petitioner in the Petition for Divorce/Annulment;
2. That Respondent is not in the military service of the United States of America; and
3. That Affiant has made this Affidavit pursuant to the provisions of § 200 of the Act of Congress entitled "Soldiers and Sailors Civil Relief Act of 1940" (50 U.S.C.A. App. 520) approved October 17, 1940.



Sign in the presence of a notary or court staff on the day of your hearing.



Anne C. Smith

Petitioner

SWORN TO AND SUBSCRIBED before me this date, November 30, 2004



Signed by notary or court staff.

Donna King

Notary Public or Clerk of Court